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period of 90 days after the request is received or any longer period which FNS, upon request of the State agency, may approve in a particular case, or (2) receipt of notification from the investigative agency that participation may be terminated or that the investigation has been completed. Regardless of any other provision of these regulations, FNS may not hold the State agency liable for the value of any coupons issued to households under this paragraph.

[Amdt. 136, 43 FR 43274, Sept. 22, 1978, as amended by Amdt. 257, 49 FR 32538, Aug. 15, 1984; Amdt. 267, 51 FR 6514, Feb. 25, 1986; Amdt. 272, 51 FR 12498, Apr. 11, 1986; Amdt. 288, 52 FR 11815, Apr. 13, 1987; Amdt. 272, 52 FR 18198, May 14, 1987; Amdt. 356, 59 FR 29714, June 9, 1994; Amdt. 331, 59 FR 60062, Nov. 22, 1994]

§ 278.6 Disqualification of retail food stores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualifications.

(a) *Authority to disqualify or subject to a civil money penalty.* FNS may disqualify any authorized retail food store or authorized wholesale food concern from further participation in the program if the firm fails to comply with the Food Stamp Act of 1977, as amended, or this part. Such disqualification shall result from a finding of a violation on the basis of evidence that may include facts established through on-site investigations, inconsistent redemption data, evidence obtained through a transaction report under an electronic benefit transfer system, or the disqualification of a firm from the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), as specified in paragraph (e)(8) of this section. Disqualification shall be for a period of 6 months to 5 years for the firm's first sanction; for period of 12 months to 10 years for a firm's second sanction; and disqualification shall be permanent for a disqualification based on paragraph (e)(1) of this section. Any firm which has been disqualified and which wishes to be reinstated at the end of the period of disqualification, or at any later time, shall file a new application under § 278.1 so that FNS may determine whether reauthorization is appropriate. The application may be filed no earlier than 10 days before the end of the period of disqualification. FNS may, in lieu of a disqualification, subject a firm to a civil money penalty of up to an amount specified in § 3.91(b)(3)(i) of this title for each violation if FNS determines that a disqualification would cause hardship to participating households. FNS may impose a civil money penalty of up to an amount specified in § 3.91(b)(3)(ii) of this title for each violation in lieu of a permanent disqualification for trafficking, as defined in § 271.2 of this chapter, in accordance with the provisions of paragraphs (i) and (j) of this section.

(b) *Charge letter*—(1) *General provisions.* Any firm considered for disqualification or imposition of a civil money penalty under paragraph (a) of this section or a fine as specified under paragraph (l) or (m) of this section shall have full opportunity to submit to FNS information, explanation, or evidence concerning any instances of noncompliance before FNS makes a final administrative determination. The FNS regional office shall send the firm a letter of charges before making such determination. The letter shall specify the violations or actions which FNS believes constitute a basis for disqualification or imposition of a civil money penalty or fine. The letter shall specify the violations or actions which FNS believes constitute a basis for disqualification or imposition of a civil money penalty. The letter shall inform the firm that it may respond either orally or in writing to the charges contained in the letter within 10 days of receiving the letter. The firm's response shall set forth a statement of evidence, information, or explanation concerning the specified violations or acts. The firm shall make its response, if any, to the officer in charge of the FNS field office which has responsibility for the project area in which the firm is located. In the case of a firm for which action is taken in accordance with paragraph (e)(8) of this section, the charge letter shall inform such firm that the disqualification action is not subject to administrative or judicial review, as specified in paragraph (e)(8) of this section.

(2) *Charge letter for trafficking.* (i) The charge letter shall advise a firm being

considered for permanent disqualification based on evidence of trafficking as defined in §271.2 that the firm must notify FNS if the firm desires FNS to consider the sanction of a civil money penalty in lieu of permanent disqualification. The charge letter shall also advise the firm that the permanent disqualification shall be effective immediately upon the date of receipt of the notice of determination, regardless of whether a request for review is filed in accordance with part 279 of this chapter. If the disqualification is reversed through administrative or judicial review, the Secretary shall not be liable for the value of any sales lost during the disqualification period. Firms that request and are determined eligible for a civil money penalty in lieu of permanent disqualification for trafficking may continue to participate in the program pending review and shall not be required to pay the civil money penalty pending appeal of the trafficking determination action.

(ii) Firms that request consideration of a civil money penalty in lieu of a permanent disqualification for trafficking shall have the opportunity to submit to FNS information and evidence as specified in §278.6(i), that establishes the firm's eligibility for a civil money penalty in lieu of a permanent disqualification in accordance with the criteria included in §278.6(i). This information and evidence shall be submitted within 10 days, as specified in §278.6(b)(1).

(iii) If a firm fails to request consideration for a civil money penalty in lieu of a permanent disqualification for trafficking and submit documentation and evidence of its eligibility within the 10 days specified in §278.6(b)(1), the firm shall not be eligible for such a penalty.

(c) *Review of evidence.* The letter of charges, the response, and any other information available to FNS shall be reviewed and considered by the appropriate FNS regional office, which shall then issue the determination. In the case of a firm subject to permanent disqualification under paragraph (e)(1) of this section, the determination shall inform such a firm that action to permanently disqualify the firm shall be effective immediately upon the date of receipt of the notice of determination from FNS, regardless of whether a request for review is filed in accordance with part 279 of this chapter. If the disqualification is reversed through administrative or judicial review, the Secretary shall not be liable for the value of any sales lost during the disqualification period. Firms that request and are determined eligible to a civil money penalty in lieu of permanent disqualification for trafficking may continue to participate in the program pending review and shall not be required to pay the civil money penalty pending appeal of the trafficking determination action. In the case of a firm for which action is taken in accordance with paragraph (e)(8) of this section, the determination notice shall inform such firm that the disqualification action is not subject to administrative or judicial review, as specified in paragraph (e)(8) of this section.

(d) *Basis for determination.* The FNS regional office making a disqualification or penalty determination shall consider: (1) The nature and scope of the violations committed by personnel of the firm, (2) any prior action taken by FNS to warn the firm about the possibility that violations are occurring, and (3) any other evidence that shows the firm's intent to violate the regulations.

(e) *Penalties.* FNS shall take action as follows against any firm determined to have violated the Act or regulations. For the purposes of assigning a period of disqualification, a warning letter shall not be considered to be a sanction. A civil money penalty and a disqualification shall be considered sanctions for such purposes. The FNS regional office shall:

(1) Disqualify a firm permanently if:

(i) Personnel of the firm have trafficked as defined in §271.2; or

(ii) Violations such as, but not limited to, the sale of ineligible items occurred and the firm had twice before been sanctioned.

(iii) It is determined that personnel of the firm knowingly submitted information on the application that contains false information of a substantive nature that could affect the eligibility of the firm for authorization in the

program, such as, but not limited to, information related to:

(A) Eligibility requirements under § 278.1(b), (c), (d), (e), (f), (g) and (h);

(B) Staple food stock;

(C) Annual gross sales for firms seeking to qualify for authorization under Criterion B as specified in the Food Stamp Act of 1977, as amended;

(D) Annual staple food sales;

(E) Total annual gross retail food sales for firms seeking authorization as co-located wholesale/retail firms;

(F) Ownership of the firm;

(G) Employer Identification Numbers and Social Security Numbers;

(H) Food Stamp Program history, business practices, business ethics, WIC disqualification or authorization status, when the store did (or will) open for business under the current ownership, business, health or other licenses, and whether or not the firm is a retail and wholesale firm operating at the same location; or

(I) Any other information of a substantive nature that could affect the eligibility of a firm.

(2) Disqualify the firm for 5 years if it is to be the firm's first sanction, the firm had been previously advised of the possibility that violations were occurring and of possible consequences of violating the regulations, and the evidence shows that:

(i) It is the firm's practice to sell expensive or conspicuous nonfood items, cartons of cigarettes, or alcoholic beverages in exchange for food coupons; or

(ii) The firm's coupon redemptions for a specified period of time exceed its food sales for the same period of time; or

(iii) A wholesale food concern's redemptions of coupons for a specified period of time exceed the redemptions of all the specified authorized retail food stores, nonprofit cooperative food-purchasing ventures, group living arrangements, drug addict and alcoholic treatment programs, homeless meal providers, and shelters for battered women and children which the wholesale food concern was authorized to serve during that time; or

(iv) A wholesale food concern's stated redemptions of coupons for a particular retail food store, nonprofit cooperative food-purchasing venture, group living arrangement, drug addict and alcoholic treatment program, homeless meal providers, or shelters for battered women and children exceeded the actual amount of coupons which that firm or organization redeemed through the wholesaler; or

(v) Personnel of the firm knowingly accepted coupons from an unauthorized firm or an individual known not to be legally entitled to possess coupons.

(3) Disqualify the firm for 3 years if it is to be the first sanction for the firm and the evidence shows that:

(i) It is the firm's practice to commit violations such as the sale of common nonfood items in amounts normally found in a shopping basket and the firm was previously advised of the possibility that violations were occurring and of the possible consequences of violating the regulations; or

(ii) Any of the situations described in paragraph (e)(2) of this section occurred and FNS had not previously advised the firm of the possibility that violations were occurring and of the possible consequences of violating the regulations; or

(iii) The firm is an authorized communal dining facility, drug addiction or alcoholic treatment and rehabilitation program, group living arrangement, homeless meal provider, meal delivery service, or shelter for battered women and children and it is the firm's practice to sell meals in exchange for food coupons to persons not eligible to purchase meals with food coupons and the firm has been previously advised of the possibility that violations were occurring and of the possible consequences of violating the regulations; or

(iv) A wholesale food concern accepted coupons from an authorized firm which it was not authorized to serve and the wholesale food concern had been previously advised of the possibility that violations were occurring and of possible consequences of violating the regulations; or

(v) The firm is an authorized retail food store and personnel of the firm have engaged in food coupon transactions with other authorized retail stores, not including treatment programs, group living arrangements, homeless meal providers, or shelters

for battered women and children, and the firm had been previously advised of the possibility that violations were occurring and of the possible consequences of violating the regulations.

(vi) Personnel of the firm knowingly submitted information on the application that contained false information of a substantive nature related to the ability of FNS to monitor compliance of the firm with FSP requirements, such as, but not limited to, information related to:

(A) Annual eligible retail food sales;

(B) Store location and store address and mailing address;

(C) Financial institution information; or

(D) Store name, type of ownership, number of cash registers, and non-food inventory and services.

(4) Disqualify the firm for 1 year if it is to be the first sanction for the firm and the ownership or management personnel of the firm have committed violations such as the sale of common nonfood items in amounts normally found in a shopping basket, and FNS had not previously advised the firm of the possibility that violations were occurring and of the possible consequences of violating the regulations.

(5) Disqualify the firm for 6 months if it is to be the first sanction for the firm and the evidence shows that personnel of the firm have committed violations such as but not limited to the sale of common nonfood items due to carelessness or poor supervision by the firm's ownership or management.

(6) Double the appropriate period of disqualification prescribed in paragraphs (e) (2) through (5) of this section as warranted by the evidence of violations if the same firm has once before been assigned a sanction.

(7) Send the firm a warning letter if violations are too limited to warrant a disqualification.

(8) FNS shall disqualify from the Food Stamp Program any firm which is disqualified from the WIC Program:

(i) Based in whole or in part on any act which constitutes a violation of that program's regulation and which is shown to constitute a misdemeanor or felony violation of law, or for any of the following specific program violations:

(A) A pattern of claiming reimbursement for the sale of an amount of a specific food item which exceeds the store's documented inventory of that food item for a specified period of time;

(B) Exchanging WIC food instruments for cash, credit or consideration other than eligible food; or the exchange of firearms, ammunition, explosives or controlled substances, as defined in section 802 of title 21 of the United States Code, for food instruments;

(C) A pattern of receiving, transacting and/or redeeming WIC food instruments outside of authorized channels;

(D) A pattern of exchanging non-food items for a WIC food instrument;

(E) A pattern of charging WIC customers more for food than non-WIC customers or charging WIC customers more than the current shelf price; or

(F) A pattern of charging for food items not received by the WIC customer or for foods provided in excess of those listed on the food instrument.

(ii) FNS shall not disqualify a firm from the Food Stamp Program on the basis of a WIC disqualification unless:

(A) Prior to the time prescribed for securing administrative review of the WIC disqualification action, the firm was provided individual and specific notice that it could be disqualified from the Food Stamp Program based on the WIC violations committed by the firm;

(B) A signed and dated copy of such notice is provided to FNS by the WIC administering agency; and

(C) A determination is made in accordance with paragraph (a) of this section that such action will not cause a hardship for participating Food Stamp households.

(iii) Such a Food Stamp disqualification:

(A) Shall be for the same length of time as the WIC disqualification;

(B) May begin at a later date than the WIC disqualification; and

(C) Shall not be subject to administrative or judicial review under the Food Stamp Program.

(f) *Criteria for civil money penalties for hardship and transfer of ownership.* (1) FNS may impose a civil money penalty as a sanction in lieu of disqualification

when the firm subject to a disqualification is selling a substantial variety of staple food items, and the firm's disqualification would cause hardship to food stamp households because there is no other authorized retail food store in the area selling as large a variety of staple food items at comparable prices. FNS may disqualify a store which meets the criteria for a civil money penalty if the store had previously been assigned a sanction. A civil money penalty for hardship to food stamp households may not be imposed in lieu of a permanent disqualification.

(2) In the event any retail food store or wholesale food concern which has been disqualified is sold or the ownership thereof is otherwise transferred to a purchaser or transferee, the person or other legal entity who sells or otherwise transfers ownership of the retail food store or wholesale food concern shall be subjected to and liable for a civil money penalty in an amount to reflect that portion of the disqualification period that has not expired, to be calculated using the method found at § 278.6(g). If the retail food store or wholesale food concern has been permanently disqualified, the civil money penalty shall be double the penalty for a ten year disqualification period. The disqualification shall continue in effect at the disqualified location for the person or other legal entity who transfers ownership of the retail food store or wholesale food concern notwithstanding the imposition of a civil money penalty under this paragraph.

(3) At any time after a civil money penalty imposed under paragraph (f) (2) of this section has become final under the provisions of part 279, the Food and Consumer Service may request the Attorney General institute a civil action to collect the penalty from the person or persons subject to the penalty in a district court of the United States for any district in which such person or persons are found, reside, or transact business.

(4) A bona fide transferee of a retail food store shall not be required to pay a civil money penalty imposed on the firm prior to its transfer. A buyer or transferee (other than a bona fide buyer or transferee) may not be authorized to accept or redeem coupons and may not accept or redeem coupons until the Secretary receives full payment of any penalty imposed on such store or concern.

(g) *Amount of civil money penalties for hardship and transfer of ownership.* FNS shall determine the amount of the civil money penalty as follows:

(1) Determine the firm's average monthly redemptions of coupons for the 12-month period ending with the month immediately preceding that month during which the firm was charged with violations.

(2) Multiply the average monthly redemption figure by 10 percent.

(3) Multiply the product arrived at in paragraph (g)(2) by the number of months for which the firm would have been disqualified under paragraph (e) of this section. The civil money penalty may not exceed an amount specified in § 3.91(b)(3)(i) of this title for each violation.

(h) *Notifying the firm of civil money penalties for hardship and transfer of ownership.* A firm has 15 days from the date the FNS regional office notifies the firm in writing in which to pay the civil money penalty, or to notify the regional office in writing of its intent to pay in installments as specified by the regional office. The firm must present to FNS a collateral bond as specified in § 278.1(b)(4), within the same 15-day period. The civil money penalty must be paid in full by the end of the period for which the firm would have been disqualified. FNS shall:

(1) Disqualify the firm for the period determined to be appropriate under paragraph (e) of this section if the firm refuses to pay any of the civil money penalty;

(2) Disqualify the firm for a period corresponding to the unpaid part of the civil money penalty if the firm does not pay the civil money penalty in full or in installments as specified by the FNS regional office; or

(3) Disqualify the firm for the prescribed period if the firm does not present a collateral bond within the required 15 days. Any payment on a civil money penalty which have been received by FNS shall be returned to the firm. If the firm presents the required bond during the disqualification period, the civil money penalty may be

reinstated for the duration of the disqualification period.

(i) *Criteria for eligibility for a civil money penalty in lieu of permanent disqualification for trafficking.* FNS may impose a civil money penalty in lieu of a permanent disqualification for trafficking as defined in §271.2 if the firm timely submits to FNS substantial evidence which demonstrates that the firm had established and implemented an effective compliance policy and program to prevent violations of the Program. Firms assessed a CMP under this paragraph shall be subject to the applicable penalties included in §278.6(e) (2) through (6) for the sale of ineligible items. Only those firms for which a permanent disqualification for trafficking took effect on or after October 1, 1988, are eligible for a civil money penalty in lieu of permanent disqualification for trafficking, except that firms that have been disqualified but are awaiting a judicial review decision are eligible for a civil money penalty in lieu of a permanent disqualification. In determining the minimum standards of eligibility of a firm for a civil money penalty in lieu of a permanent disqualification for trafficking, the firm shall, at a minimum, establish by substantial evidence its fulfillment of each of the following criteria:

Criterion 1. The firm shall have developed an effective compliance policy as specified in §278.6(i)(1); and

Criterion 2. The firm shall establish that both its compliance policy and program were in operation at the location where the violation(s) occurred *prior* to the occurrence of violations cited in the charge letter sent to the firm; and

Criterion 3. The firm had developed and instituted an effective personnel training program as specified in §278.6(i)(2); and

Criterion 4. Firm ownership was not aware of, did not approve, did not benefit from, or was not in any way involved in the conduct or approval of trafficking violations; or it is only the first occasion in which a member of firm management was aware of, approved, benefited from, or was involved in the conduct of any trafficking violations by the firm. Upon the second occasion of trafficking involvement by any member of firm management uncovered during a subsequent investigation, a firm shall not be eligible for a civil money penalty in lieu of permanent disqualification. Notwithstanding the above provision, if trafficking violations consisted of the sale of firearms, ammunition, explosives or controlled substances, as defined in 21 U.S.C. §802, and such trafficking was conducted by the ownership or management of the firm, the firm shall not be eligible for a civil money penalty in lieu of permanent disqualification. For purposes of this section, a person is considered to be part of firm management if that individual has substantial supervisory responsibilities with regard to directing the activities and work assignments of store employees. Such supervisory responsibilities shall include the authority to hire employees for the store or to terminate the employment of individuals working for the store.

(1) *Compliance policy standards.* As specified in Criterion 1 above, in determining whether a firm has established an effective policy to prevent violations, FNS shall consider written and dated statements of firm policy which reflect a commitment to ensure that the firm is operated in a manner consistent with this part 278 of current FSP regulations and current FSP policy on the proper acceptance and handling of food coupons. As required by Criterion 2, such policy statements shall be considered only if documentation is supplied which establishes that the policy statements were provided to the violating employee(s) prior to the commission of the violation. In addition, in evaluating the effectiveness of the firm's policy and program to ensure FSP compliance and to prevent FSP violations, FNS may consider the following:

(i) Documentation reflecting the development and/or operation of a policy to terminate the employment of any firm employee found violating FSP regulations;

(ii) Documentation of the development and/or continued operation of firm policy and procedures resulting in appropriate corrective action following complaints of FSP violations or irregularities committed by firm personnel;

(iii) Documentation of the development and/or continued operation of procedures for internal review of firm employees' compliance with FSP regulations;

(iv) The nature and scope of the violations charged against the firm;

(v) Any record of previous firm violations under the same ownership; and

(vi) Any other information the firm may present to FNS for consideration.

(2) *Compliance training program standards.* As prescribed in Criterion 3 above, the firm shall have developed and implemented an effective training program for all managers and employees on the acceptance and handling of food coupons in accordance with this part 278. A firm which seeks a civil money penalty in lieu of a permanent disqualification shall document its training activity by submitting to FNS its dated training curricula and records of dates training sessions were conducted; a record of dates of employment of firm personnel; and contemporaneous documentation of the participation of the violating employee(s) in initial and any follow-up training held prior to the violation(s). FNS shall consider a training program effective if it meets or is otherwise equivalent to the following standards:

(i) Training for all managers and employees whose work brings them into contact with food stamps or who are assigned to a location where food stamps are accepted, handled or processed shall be conducted within one month of the institution of the compliance policy under Criterion 1 above. Employees hired subsequent to the institution of the compliance policy shall be trained within one month of employment. All employees shall be trained periodically thereafter;

(ii) Training shall be designed to establish a level of competence that assures compliance with Program requirements as included in this part 278;

(iii) Written materials, which may include FNS publications and program regulations that are available to all authorized firms, are used in the training program. Training materials shall clearly state that the following acts are prohibited and are in violation of the Food Stamp Act and regulations: the exchange of food coupons, ATP cards or other program access devices for cash; and, in exchange for coupons, the sale of firearms, ammunition, explosives or controlled substances, as the term is defined in section 802 of title 21, United States Code.

(j) *Amount of civil money penalty in lieu of permanent disqualification for trafficking.* A civil money penalty assessed in accordance with § 278.6(i) shall not exceed the amount specified in § 3.91(b)(3)(ii) of this title for each violation and shall not exceed the amount specified in § 3.91(b)(3)(ii) of this title for all violations occurring during a single investigation. FNS shall determine the amount of the civil money penalty as follows:

(1) Determine the firm's average monthly redemptions for the 12-month period ending with the month immediately preceding the month during which the firm was charged with violations;

(2) Multiply the average monthly redemption figure by 10 percent;

(3) For the first trafficking offense by a firm, multiply the product obtained in § 278.6(j)(2) by 60 if the largest amount of food coupons, ATP cards, or other benefit instruments involved in a single trafficking transaction had a face value of $99 or less. If the face value of coupons, ATP cards or other benefit instruments involved in the largest single trafficking transaction was $100 or more, the amount of the product obtained in this paragraph shall be doubled;

(4) For a second trafficking offense by a firm, multiply the product obtained in § 278.6(j)(2) by 120 if the largest amount of food coupons, ATP cards, or other benefit instruments involved in a single trafficking transaction had a face value of $99 or less and the same firm has once before been sanctioned for trafficking in food coupons, ATP cards, or other benefit instruments. If the face value of food coupons, ATP cards, or other benefit instruments involved in the largest single trafficking transaction was $100 or more, the amount of the product obtained in this paragraph shall be doubled; and

(5) If a third trafficking offense is committed by the firm, the firm shall not be eligible for a civil money penalty in lieu of disqualification.

(k) *Payment of civil money penalty in lieu of a permanent disqualification for trafficking.* Payment of the full amount of the civil money penalty in lieu of permanent disqualification for trafficking shall be made within 30 days of the date the final determination was received by the firm. If payment is not made within the prescribed period, the right to the civil money penalty in lieu

of a permanent disqualification is forfeited and disqualification shall become effective immediately.

(l) *Fines for the acceptance of loose coupons.* FNS may impose a fine against any retail food store or wholesale food concern that accepts coupons that are not accompanied by the corresponding book cover, other than the denomination of coupons used for making change as specified in §278.2(d) or coupons accepted from homeless meal providers as specified in §278.2(c). The fine to be assessed against a firm found to be accepting loose coupons shall be $500 per investigation *plus* an amount equal to double the face value of each loose coupon accepted, and may be assessed and collected in addition to any fiscal claim established by FNS. The fine shall be paid in full within 30 days of the firm's receipt of FNS' notification to pay the fine. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against the store or concern to collect the fine. FNS may withdraw the authorization of the store, as well as other authorized locations of a multi-unit firm which are under the same ownership, for failure to pay such a fine as specified under §278.1(k). FNS may deny the authorization of any firm that has failed to pay such fines as specified under §278.1(j).

(m) *Fines for unauthorized third parties that accept food stamps.* FNS may impose a fine against any individual, sole proprietorship, partnership, corporation or other legal entity not approved by FNS to accept and redeem food coupons for any violation of the provisions of the Food Stamp Act or the program regulations, including violations involving the acceptance of coupons. The fine shall be $1,000 for each violation *plus* an amount equal to three times the face value of the illegally accepted food coupons. The fine shall be paid in full within 30 days of the individual's or legal entity's receipt of FNS' notification to pay the fine. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against the person to collect the fine. FNS may withdraw the authorization of any firm that is under the same ownership as an unauthorized firm that has failed to pay such a fine, as specified under §278.1(k). FNS may deny authorization to any firm that has failed to pay such a fine, as specified under §278.1(j).

(n) *Review of determination.* The determination of FNS shall be final and not subject to further administrative or judicial review unless a written request for review is filed within the period stated in part 279 of this chapter.

Notwithstanding the above, any FNS determination made on the basis of paragraph (e)(8) of this section shall not be subject to further administrative or judicial review.

(o) *Delivery of notice.* The delivery by any method that provides evidence of delivery of any notice required of FNS by this part will constitute notice to the addressee of its contents.

[Amdt. 136, 43 FR 43274, Sept. 22, 1978.]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §278.6, see the list of CFR Section Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

EFFECTIVE DATE NOTE: At 73 FR 79595, Dec. 30, 2008, §278.6 was amended by revising paragraph (e)(4) and by amending paragraph (h) by adding the words ''or irrevocable letter of credit'' after the word ''bond'' wherever it appears, effective March 2, 2009. For the convenience of the user, the revised text is set forth as follows:

§278.6 Disqualification of retail food stores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualifications.

* * * * *

(e) * * *

(4) Disqualify the firm for 1 year if:

(i) It is to be the first sanction for the firm and the ownership or management personnel of the firm have committed violations such as the sale of common nonfood items in amounts normally found in a shopping basket, and FNS had not previously advised the firm of the possibility that violations were occurring and of the possible consequences of violating the regulations; or

(ii) The firm has accepted food stamp benefits in payment for items sold to a household on credit.

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